



Virginia Housing Commission Affordable Housing and Real Estate Law Workgroup

August 22, 2019, at 1:00 p.m.

The Capitol, House Room 1

dls.virginia.gov/commissions/vhc.htm

The Affordable Housing and Real Estate Law Workgroup (a workgroup of the Virginia Housing Commission, hereafter the Workgroup) met in Richmond with Delegate Christopher K. Peace, chair, presiding.¹ The meeting began with introductions, including the introduction of a new gubernatorial appointee, James Forrest Hayes, and opening remarks by the chair and the director, followed by presentations and discussion. Materials presented at the meeting are accessible through the [Commission's meetings webpage](#).

Presentation: Home Energy Audits

Senator Scott Surovell

Eric Olson, Executive Director for Board for Contractors, Department of Professional and Occupational Regulation (DPOR)

Elizabeth Beardsley, Senior Policy Counsel, American Council for Energy Efficiency

Home energy audits are provided by licensed energy analysts who suggest cost-effective measures concerning HVA systems, electronics, installation, gas and combustion rates, and air quality; they do not fix the issues that are identified. Senator Scott Surovell, the Executive Director of the Board for Contractors that regulates energy analysts, and a nonprofit energy efficiency group representative provided statistics and information about home energy audits, officially referred to as a residential building energy analysis.

Issue Presentation and Draft Bill (Surovell)

Senator Surovell presented a proposed bill that places a residential building energy analysis, as defined in the Code of Virginia in § 54.1-1144, in the required disclosure portion of the Virginia Residential Property Act (VRLTA). In 2009, Senator Surovell had a home energy audit performed on his home, which was constructed in 2005. The audit revealed significant energy loss from the house. Correcting issues presented by an audit is one of the cheapest ways to be more energy efficient. The average homeowner who has an energy audit realizes a savings of \$300 to \$400 per year. Carbon consumption is also reduced as a result of fixing issues addressed by the audit. As of 2011, energy analysts (those who conduct the audits) can be licensed in Virginia. The next step, Senator Surovell suggested, would be to add residential building energy analyses to the mandatory disclosure section of the VRLTA and advise buyers to use due diligence at the point of sale.

¹ **Members Present:** Delegate Christopher K. Peace, Senator Mamie Locke, Delegate Betsy Carr, James Forrest Hayes, Laura D. Lafayette, Robert N. Bradshaw, Tyler Craddock, Kristen Dahlman, Phyllis Errico, Brian Gordon, Michelle Gowdy, Helen Hardiman, Kelly Harris-Braxton, Barry Merchant, Renee Pulliam, Ed Rhoads, Erin Rice, Jay Speer, Elizabeth Steele

Members Absent: Senator George Barker, Delegate Barry Knight, Senator William Stanley, Lawrence Pearson, Andrew Clark, Heather M. Crislip, Chip Dicks, Kelly King Horner, Pamela Kestner

A suggestion was made, and unanimously agreed upon by Senator Surovell, who proposed the initial legislation, and the Workgroup, to change the word "or" on line 16 of the proposed bill to "and" so the proposed buyer would know he should consider both a home inspection and an energy audit when purchasing a home. The recommendation will be brought to the full Commission.

Licensure of Energy Analysts (Olson)

Energy analysts are governed by DPOR's Board for Contractors, of which Mr. Eric Olson is the director. Virginia is one of the first states to require licensure to perform energy audits. The first licenses for energy analysts were awarded in July 2013 to 80 energy analysis firms and 120 analysts. The number of analysts has decreased to 71 firms and 53 individuals since then. There are a series of qualifications outlined in DPOR's regulations to secure licensure in the field. The licensed home energy analysts have been certified in their trade through national companies and must be covered by \$100,000 in liability insurance. The cost in Virginia to have a home energy audit is between \$150 and \$500. No fee schedule is mandated by the regulations for energy analysts.

Additionally, the federal government requires an energy audit every five years for public housing. Many states require an audit on commercial properties. There are just a few states that require a home energy audit upon the sale of a property.

Green Building in the Commonwealth (Beardsley)

Ms. Elizabeth Beardsley, who also represents the US Green Building Council, a mission-based nonprofit organization working to enhance the environment, provided facts about "green" building in the Commonwealth. Virginia is ranked 26th among states by the American Council for an Energy-Efficient Economy (ACEEE). There is a growing desire for green homes in the Commonwealth and a growing number of these homes being built. In 2018, there were 2,400 green units in Virginia. In 2017, one fourth of new housing in Virginia received Leadership in Energy and Environmental Design (LEED) certification. To assist in home purchases, Fannie Mae now provides preferential lending for construction of green multi-family housing.

Virginia Tech conducted a study in which they studied the savings garnered through having an energy efficient affordable apartment. The study concluded that the average renter saved \$54 in electric costs per month in an energy efficient apartment. The savings were on average 3% of an individual's net earnings per year.

Energy audits are a cost-effective resource and a small, but important, step toward reducing carbon emissions.

Presentation: Military Personnel Security Deposits and Lease Provisions

Derrick Nelson, United States Navy (retired), Installation Program Director, Navy Housing Service Center

Dwain Alexander, II, Esquire, Senior Civilian Supervisory Attorney, Legal Assistance Department, Region Legal Services Office, Mid-Atlantic, United States Navy

Brian Gordon, Apartment and Office Building Association of Metropolitan Washington

Federal politicians from Virginia, the Virginia Housing Commission, and nonprofit housing service providers have each seen a rise in complaints from service members about not receiving their security deposits back when the service members believed they were entitled to them.



Service members are frequently asked to waive the Service members Civil Relief Act (SCRA) when signing a lease for residential housing that is not located on a military base. The majority of service members in Virginia live off base. The SCRA provides financial protections for military personnel when they are on active duty. The protections include allowing active service members to break their residential leases without financial consequences after signing the lease, when members are deployed for a period of more than 90 days.

The speakers at the meeting, including representatives of the U.S. Navy and the Apartment and Office Building Association of Metropolitan Washington, spoke to clarify these issues and see if the Virginia Housing Commission could find a solution that satisfies both landlords and service members.

Mr. Derrick Nelson is a retired chief petty officer who now operates a navy housing service center in Hampton Roads. His office offers education about leases and housing to military personnel. He encourages enlisted personnel to bring their leases to his office prior to signing.

One topic of concern to him is that the VRLTA doesn't cover dependents. There is often an issue with dependents having to vacate the leased property after the service person is deployed. Mr. Alexander explained that a dependent is defined as anyone who lives with the service member and receives 50 or more percent of their income from the service member.

The vacating of existing leases is a major issue for service members. Educating service members about the SCRA is Mr. Nelson's greatest goal for those he consults.

Mr. Dwain Alexander, a retired navy captain who now works in the U.S. Navy legal offices in a position he defined as a legal assistance attorney, spoke on his own behalf, not that of the U.S. Navy. According to Mr. Alexander, the majority of the U.S. Navy population affected by the SCRA are 18- to 24-year-old service members. These service members routinely waive the rights afforded them under their leases. Mr. Alexander stated that there is an impact on every member of the service when one member is distracted by an issue with his lease, as all members must concentrate on mission readiness. The SCRA waiver is intended to enhance our national defense interests. The SCRA, Mr. Alexander stated, is to be viewed and interpreted in the light most favorable to the service member. It includes protections for dependents and no distance limitations on a service member's move. He argued that new legislation should establish that the rights provided under the SCRA cannot be waived prior to the occurrence of a legal dispute or conflict between the parties, making waivers signed before a dispute or conflict invalid and unenforceable.

Mr. Gordon spoke about security deposit issues, touching briefly on the SCRA as the discussion broadened to the waiver of provisions in the SCRA. He is glad that service members have guidance, as it is also a benefit to landlords and property managers. There are timelines and a process for the return of deposits. Gordon is in agreement that education is a means to resolve the issue between landlords and enlisted military personnel. Provisions cannot be waived in the VRLTA and Gordon sees discrepancies between the federal and state act. He is willing to be on a sub-workgroup to mediate this issue.

Presentation: American Legion Project; Arlington Partnership for Affordable Housing
Nina Janopaul, CEO, Arlington Partnership for Affordable Housing

Ms. Janopaul spoke about her organization's efforts to provide an example of a housing project that can be replicated by affordable housing providers throughout the state.



Most of Arlington is already fully developed. This project repurposed an American Legion hall that was not being used to its full potential. The housing model used may also apply to rural areas, which also have outdated American Legion halls.

The presentation showed a best-practices example of how to develop affordable housing in dense urban areas. Housing prices in Arlington are increasing twice as fast as the national income. By 2045, using the localities' master plans, the Commonwealth estimates it will be short 100,000 units of housing across all price points. Ms. Janopaul stated that people want multi-family housing in walkable communities that are accessible to public transport. Creative land use strategies are needed, such as a strategy providing increased density in exchange for more affordable units being built. Under-utilized public land and former civic buildings have been used to create more affordable housing units in Arlington. Arlington Partnership for Affordable Housing partnered with the American Legion to use the current American Legion hall in Arlington for multi-family housing units, with a percentage of units set aside for veterans. The former hall was decrepit, smoky, and not accessible by wheel chairs. The creation of a new hall with additional housing, located above the hall, provides a good example of using increased density where land is scarce. Repurposing the hall suits the community as a whole. This is a project that may be replicated in some of the other 200 American Legion halls currently in Virginia.

Work Plan

A sub-workgroup, comprised of interested parties, will meet prior to the next Affordable Housing and Real Estate Law Workgroup meeting concerning waivers of the SCRA, the VRLTA, and the intersection of state and federal law.

Public Comment and Next Meeting

There was no public comment. A full meeting of the Virginia Housing Commission will be held at 10:00 a.m. on September 18, 2019.

For more information, see the [Commission's website](#) or contact the Division of Legislative Services staff:

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